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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,873	12/08/2000	Ping Yang	03-12861	3134
25189	7590	11/22/2004	EXAMINER	
CISLO & THOMAS, LLP 233 WILSHIRE BLVD SUITE 900 SANTA MONICA, CA 90401-1211			VAN DOREN, BETH	
		ART UNIT	PAPER NUMBER	
		3623		

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/733,873	YANG, PING	
	<b>Examiner</b>	<b>Art Unit</b>	
	Beth Van Doren	3623	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 24 August 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-8,11,30-39,42 and 62-70 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-8,11,30-39,42 and 62-70 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date .

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

1. The following is a non-final office action in response to the communications filed 08/24/2004. Applicant has elected Group I, claims 1-8, 11, 30-39, 42, and 62-70, with traverse. Therefore, claims 1-8, 11, 30-39, 42, and 62-70.

### ***Election/Restriction***

2. Applicant's election with traverse of Group I in the reply filed on 08/24/2004 is acknowledged. The traversal is on the grounds that there is but a single inventive concept and that the restriction is nothing more than an attempt to secure additional patent applications. This is not found persuasive because it does not provide any statements or rationale as to why the groups identified by the Examiner are one single invention. Therefore, the requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-8, 11, 30-32, and 62-66 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The basis of this rejection is set forth in a test of whether the invention is within the technological arts.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e. the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory

subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 1 recites a method of scheduling and delivering a product by receiving route information from a buyer, selecting a pickup point based on the route information, and dispatching a mobile pickup station to the pickup point. Therefore, the scheduling and delivery performed does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed without the use of any technology. Independent claims 11 and 30, contains similar deficiencies, also reciting a method for scheduling and delivery of a product similar to claim 1 and also including steps like receiving an order for a product, selecting a third party seller affiliate based on the location of the pickup point, receiving a channel width, and calculating a channel area. Again, the scheduling and delivery performed in these claims does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed without the use of any technology. Dependent claims 2-8, 31-32, and 62-66 further limit the recited steps above and contain the same deficiencies. Therefore, since the steps of claim 1 and its dependent claims and the steps of claim 11 only constitute an abstract idea of how to receive an order, process the order, and deliver the order to a pick-up location that do not apply, involve, use, or advance a technological art, it is respectfully submitted that the claimed invention is directed towards non-statutory subject matter.

*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 11, 30-39, 62-63, 66-67, and 70 are rejected under 35 U.S.C. 102(e) as being anticipated by Lyons et al. (U.S. 2002/0077937).

6. As per claim 1, Lyons et al. teaches a method for scheduling and delivery of a product to a buyer along the buyer's commuting route, comprising:

receiving route information from a buyer (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from a buyer);  
selecting from a plurality of pickup points a pickup point based on the route information (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked based on the range/ranking of locations); and

dispatching a mobile pickup station to the pickup point, the mobile pickup station containing a product ordered by the buyer (See at least figure 2 and paragraphs 0007-0008, wherein the good is transported to the pickup location).

7. As per claim 2, Lyons et al. teaches wherein selecting a pickup point further comprises:  
receiving a channel width and route information from the buyer (See paragraphs 0007-0008, 0024, 0030, 0032, and 0052, which receives a reference point and a range of locations);  
determining a set of pickup points from the plurality of pickup points based on the channel width and route information (See figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is determined using the range/ranking of locations);

calculating a channel area using the channel width and the route information (See paragraphs 0007-0008, 0023-0024, 0026, 0029, and 0054-0056, wherein a channel area is determined using the range/ranking of locations and a buy locally option);

determining a set of pickup points from the plurality of pickup points based on the channel area (See paragraphs 0007-0008, 0023-0026, 0029, and 0054-0056, wherein a pickup point is determined using the range/ranking of locations and a buy locally option)

selecting from the set of pickup points a pickup point (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked).

8. As per claim 3, Lyons et al. teaches wherein the plurality of pickup points is determined using an approximate buyer route concentration based on route usage (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked based on the range/ranking of locations).

9. As per claim 4, Lyons et al. teaches a method further comprising:

receiving a plurality of routes from a plurality of buyers (See figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from buyers); and determining the plurality of pickup points based on the plurality of routes (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked in each instance based on the range/ranking of locations).

10. As per claim 5, Lyons et al. discloses a method further comprising:

receiving a specification of a plurality of preferred products (See at least paragraphs 0007-0009, 0022-0025, 0027-0029 and 0031, wherein a seller submits the specification of products wanted by the buyers);

receiving an occurrence rate for each of the plurality of preferred products (See at least paragraphs 0007-0009, 0023-0025, 0027-0029 and 0031, wherein time periods are associated with products as well as substitution rules); and

ordering the product for the buyer using the occurrence rates (See at least paragraphs 0007-0009, 0023-0025, 0027-0029 and 0031, wherein the product is order for the buyer).

11. As per claim 6, Lyons et al. disclose a method further comprising reminding the buyer via email that a product delivery is scheduled at the pickup point (See at least figure 2 and paragraphs 0007-0008 and 0052, wherein the reminder is sent to the buyer via email).

12. As per claim 7, Lyons et al. teaches a method further comprising reminding telephonically that a product delivery is scheduled pickup point (See at least figure 2 and paragraphs 0007-0008 and 0052, wherein the reminder is sent to the buyer via telephone).

13. As per claim 8, Lyons et al. discloses wherein: the mobile pickup station includes a plurality of lockers for containing products, each of the plurality of lockers having a unique access code (See paragraphs 0007-0008 and 0054-0055, disclosing a unique access code); and giving the buyer an access code for a locker containing the buyer's product, the locker selected from the plurality of lockers (See paragraphs 0007-0008 and 0054-0055, disclosing a unique access code that is used by the customer).

14. As per claim 11, Lyons et al. teaches a method for scheduling and delivery of a product to a buyer by a seller using a third party seller affiliate, comprising:

receiving an order for a product from a buyer (See at least figure 2 and paragraphs 0007-0009, and 0023-0025 wherein an order is received);

receiving route information from a buyer (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from a buyer);  
selecting from a plurality of pickup points a pickup point based on the route information (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked based on the range/ranking of locations);  
selecting a third party seller affiliate from a plurality of third party sellers based on the location of the pickup point (See at least figure 2 and paragraphs 0007-0009, 0023-0025, 0027-0028, and 0052-0055, wherein a third party fulfiller is selected); and

dispatching by the third party seller affiliate a mobile pickup station to the pickup point, the mobile pickup station containing the products ordered by the buyer (See at least figure 2 and paragraphs 0007-0008, wherein the good is transported to the pickup location).

15. As per claim 30, Lyons teaches a method for scheduling and delivery of a product to a buyer along the buyer's commuting route, comprising:

receiving route information from a buyer (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from a buyer);  
receiving a channel width from the buyer (See paragraphs 0007-0008, 0024, 0030, 0032, and 0052, wherein the channel width (range) is received);

calculating a channel area using the channel width and the route information (See paragraphs 0007-0008, 0023-0024, 0026, 0029, and 0054-0056, wherein a channel area is determined using the range/ranking of locations and a buy locally option);

determining a set of pickup points from a plurality of pickup points based on the channel area (See paragraphs 0007-0008, 0023-0025, 0029, and 0054-0056, wherein a pickup point is determined using the range/ranking of locations and a buy locally option);

selecting from the set of pickup points a pickup point (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked); and

dispatching a mobile pickup station to the pickup point, the mobile pickup station containing a product ordered by the buyer (See at least figure 2 and paragraphs 0007-0008, wherein the good is transported to the pickup location).

16. Claims 31 and 32 recite equivalent limitations to claims 3 and 4, respectively, and are therefore rejected using the same art and rationale above.

17. As per claim 33, Lyons et al. teaches a data processing system adapted to schedule and deliver a product to a buyer along the buyer's commuting route, comprising:

a processor (See figure 1 and paragraph 0015 and 0017-0020); and

a memory operably coupled to the processor and having program instructions stored therein, the processor being operable to execute the program instructions (See figure 1 and paragraph 0015 and 0017-0020), the program instructions including:

receiving route information from a buyer (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from a buyer);

selecting from a plurality of pickup points a pickup point based on the route information (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked); and

dispatching a mobile pickup station to the pickup point, the mobile pickup station containing a product ordered by the buyer (See at least figure 2 and paragraphs 0007-0008, wherein the good is transported to the pickup location).

18. Claims 34-39 recite equivalent limitations to claims 2-7, respectively, and are therefore rejected using the same art and rationale above.

19. As per claim 42, Lyons et al. discloses a data processing system adapted to schedule and deliver a product a buyer by a seller using a third party seller affiliate, comprising:

a processor (See figure 1 and paragraph 0015 and 0017-0020); and  
a memory operably coupled to the processor and having program instructions stored therein, the processor being operable to execute the program instructions (See figure 1 and paragraph 0015 and 0017-0020), the program instructions including:

receiving an order for a product from a buyer (See at least figure 2 and paragraphs 0007-0009, and 0023-0025 wherein an order is received);

receiving route information from a buyer (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from a buyer);

selecting from a plurality of pickup points a pickup point based on the route information (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked based on the range/ranking of locations);

selecting a third party seller affiliate from a plurality of third party sellers based on the location of the pickup point (See at least figure 2 and paragraphs 0007-0009, 0023-0025, 0027-0028, and 0052-0055, wherein a third party fulfills is selected); and

dispatching by the third party seller affiliate a mobile pickup station to the pickup point, the mobile pickup station containing the products ordered by the buyer (See at least figure 2 and paragraphs 0007-0008, wherein the good is transported to the pickup location).

20. As per claim 62, Lyons et al. teaches wherein the route information includes a first reference point and a channel width (See at least paragraphs 0007-0008, 0024, 0030, 0032, and 0052, disclosing a phone number reference point and a range of locations).
21. As per claim 63, Lyons et al. teaches the route information further including a second reference point (See at least paragraphs 0007-0008, 0023-0025, 0029, which discloses a second reference point of pickup times or rush/urgent time frame).
22. As per claim 66, Lyons et al. teaches wherein the first reference point includes a phone number (See at least paragraphs 0007-0008, 0030, 0032, and 0052, disclosing a phone number).
23. Claims 67 and 70 recite equivalent limitations to claims 62 and 66, respectively, and are therefore rejected using the same art and rationale above.

***Claim Rejections - 35 USC § 103***

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 64-65 and 68-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons et al. (U.S. 2002/0077937).

25. As per claims 64 and 65, Lyons et al. discloses wherein the first reference point is location information (See at least figure 2 and paragraphs 0007-0008, 0023-0025, and 0054-

0056). However, though Lyons et al. discloses choosing products and pickup locations using location information, Lyon et al. does not expressly disclose that this location information includes an address or a Zip Code (See at least figure 2 and paragraphs 0007-0008, 0023-0025, and 0054-0056).

Lyons et al. discloses choosing products and pickup locations using location information as well as a “buy locally” option that sends the product order to locations of stores near the buyer of the product. See paragraphs 0023-0026. Addresses and Zip Codes are old and well-known identifying information associated with locations and furthermore it is old and well known to receive a buyer’s address information (including address and Zip Code) when a buyer places an order. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to receive this address and Zip Code information from the buyer of a product in order to increase the efficiency and speed of processing the order by receiving the information from the buyer instead of having to look up the information in the system and then process the order.

26. Claims 69 and 68 recite equivalent limitations to claims 64 and 65, respectively, and are therefore rejected using the same art and rationale above.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tsukuda (U.S. 6,085,170) discloses delivering goods from a distribution center though an agent to a place such as a locker.

Moreno (U.S. 2002/0035515) teaches order fulfillment by delivery to a locker for pickup.

Rivalto (U.S. 6,690,997) teaches pickup stations with lockers and automated package delivery.

Terada et al. (U.S. 2002/0111914) discloses ordering a product and picking it up at a delivery destination.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*bvd*  
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